

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (DCRA), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409) (2001)), and Mayor's Order 87-259, dated November 13, 1987, hereby gives notice of the adoption of a revision of Chapter 31A, Section 3107A (Signs) of Title 12A of the District of Columbia Municipal Regulations (DCMR), the Construction Codes Supplement of 2003.

This rulemaking effectuates a clarification, first adopted on an emergency basis on May 30, 2006 and last adopted on an emergency basis on March 26, 2007, of the applicability of the sign regulations to signs bearing non-commercial statements of fact, belief, or personal or political opinion posted on private property.

No changes have been made to the text of the proposed rules as published with the Notice of Emergency and Proposed Rulemaking in the *D.C. Register* on December 22, 2006, at 53 DCR 10135 and no comments were received from the public. In addition, the Building Code Advisory Committee reviewed and approved the proposed rulemaking. Pursuant to Section 10 of the Act, the Mayor submitted the proposed rulemaking to the Council of the District of Columbia (Council) for a 45 day period of review on March 5, 2007. The 45 day review period expired without action by the Council and the proposed rules are deemed approved.

The public is advised that this rulemaking is designed to clarify that section 3107A is intended to protect speech protected by the First Amendment, and to serve as notice that District residents do not need a permit to post signs on their residential property which contain non-commercial speech protected by the First Amendment. Review of section 3107A has demonstrated that a more comprehensive revision of the sign regulation is needed to update the sign rules, further resolve ambiguities and inconsistencies, and ensure that the public interests underlying the regulations, such as sign safety, aesthetics, and traffic safety, are optimally balanced against the protection of individual interests in personal and commercial expression. These issues will be further addressed in a subsequent rulemaking, which will be developed in consultation with the District of Columbia Building Code Advisory Committee and released for public comment on or before January 2008. Public comments received in connection with this proposed rulemaking will also be considered in the development of the subsequent proposed rules.

These rules will be effective on the date of publication of this notice in the *D.C. Register*.

Chapter 31A, Section 3107A of Title 12A of the District of Columbia Municipal Regulations (DCMR), the Construction Codes Supplement of 2003, is amended as follows:

Section 3107.1 (General) is amended by adding the following sentence at the end:

“Except as otherwise specifically provided, Section 3107 shall not apply to signs bearing non-commercial statements of fact, belief, or personal or political opinion posted on private property.”

Section 3107.3 (Permits) is amended by striking the word “exceeding” and inserting the phrase “subject to the provisions of Section 3107 that exceeds” in its place.

Section 3107.3.5.6 ((Show cards) is repealed.

Section 3107.4 (Commission of Fine Arts submission) is amended by inserting the phrase “for review of signs subject to the provisions of section 3107” after the word “applications”.

Section 3107.6 (Character of Advertising) is amended by striking the words “of any character” and inserting the phrase “subject to provisions of Section 3107” in its place.

Section 3107.6.2 (Removal of signs) is amended by inserting the phrase “subject to the provisions of Section 3107 that was” after the phrase “Any sign” and inserting the word “and” after the word “maintained”.

Section 3107.6.3 (Miscellaneous signs) is repealed.

Section 3107.6.6 (Directional signs) is amended by striking the phrase “under Section 3107.3.5.6 for show cards,”.

Section 3107.6.7 (Special permits) is amended by striking the phrase “will aid in the promotion of an activity of an exclusively civic nature or” after the phrase “approval of the permit”.

Section 3107.7 (Types of signs) is amended by inserting the phrase “subject to provisions of Section 3107.” after the phrase “for all signs”.

Section 3107.7.7.9 (Transported signs and banners) is amended by inserting the phrase “, or to any other signs bearing non-commercial statements of fact, belief, or personal or political opinion.” after the word “dispute”.

Section 3107.9 (Residential or Special Purpose District limitations) is amended by inserting the phrase “subject to provisions of Section 3107” after the word “signs”.

Section 3107.9.1 (General Residential District limitations) is amended by inserting the phrase “except signs bearing non-commercial statements of fact, belief, or personal or political opinion,” after the word “Regulations”.

Section 3107.9.3 (Location restrictions) is amended by inserting the phrase “subject to the provisions of Section 3107” after the phrase “district signs”.

Section 3107.9.5 (Authorized signs) is amended to read as follows:

3107.9.5 Authorized signs. The code official is authorized to issue a permit for signs complying with any of Sections 3107.9.5.1 through 3107.9.5.8.

Section 3107.9.5.1 (Public Information) is repealed.

Section 3107.9.6 (Signs in special purpose districts) is amended by inserting the phrase "subject to the provisions of Section 3107" after the phrase "total area of signs".

Section 3107.10 (Maximum size of signs) is amended by inserting the phrase "subject to provisions of Section 3107 and" after the word "signs".

Section 3107.10.7 (Exemptions) is amended by inserting the phrase "and signs not subject to the provisions of section 3107" after the phrase "through 3107.3.5.8".

Section 3107.11 (Structural and materials requirements) is amended by inserting the phrase "subject to the provisions of Section 3107," after the phrase "All signs".

Section 3107.13 (Dangerous signs) is amended by inserting the phrase ", including signs bearing non-commercial statements of fact, belief, or personal or political opinion posted on private property," after the phrase "When any sign".

Section 3107.14 (Obstructive signs) is amended by inserting the phrase ", including signs bearing non-commercial statements of fact, belief, or personal or political opinion posted on private property," after the phrase "No sign".